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June 19, 2014

Jeff S. Jordan
Federal Election Commission
999 E Street, NW, 6th Floor
Washington DC 20463

Re: Response to Complaint, MUR 6777

Dear Mr. Jordan:

On behalf of Kirkpatrick for Arizona and Daniel A. Flores, in his official capacity as treasurer (collectively, the "Committee"), this letter responds to the Complaint received on May 5, 2014. The Commission should dismiss the complaint with respect to the Committee and close the file.

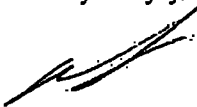
First, the Complainant has not filed a valid complaint against the Committee. A complaint must "clearly identify as a respondent each person or entity who is alleged to have committed a violation." *See* 11 C.F.R. §§ 111.4(d)(1). While the Complaint alleges that "House Majority PAC have [sic] violated the Federal Election Campaign Act of 1971, as amended, and Federal Election Commission Regulations," Complaint at 3, it does not identify the Committee as a respondent, or ask the Commission to do so. Thus, at least with respect to the Committee, the Complaint is not properly before the Commission, and the Committee should not have been identified as a respondent in this matter. *See id.* § 111.5(a); 2 U.S.C. § 437g(a)(1) (authorizing the Commission to serve a complaint on "any person *alleged in the complaint to have committed such a violation*") (emphasis added).

Second, the Complaint does not allege facts that, if true, would constitute a violation of the Act or Commission rules by the Committee. It argues that House Majority PAC violated the Act by "republishing" footage that Respondent had posted on YouTube. However, the rules provide that, even if House Majority PAC had republished Committee campaign materials, the Committee would not have received a contribution unless the communication was otherwise coordinated with it: "The candidate who prepared the campaign material does not receive or accept an in-kind contribution, and is not required to report an expenditure, unless the dissemination, distribution, or republication of campaign materials is a coordinated communication under 11 C.F.R. 109.21 or a party coordinated communication under 11 C.F.R. 109.37." 11 C.F.R. § 109.23(a); *see also*

MUR 6667 (Friends of Cherie Bustos); MUR 6617 (Vilsack for Iowa). The Complaint does not allege any conduct necessary for a coordinated communication under 11 C.F.R. § 109.21(d) and, thus, even if all of its allegations are true, it fails to present a violation by the Committee.¹

For these reasons, the Complaint against the Committee must be immediately dismissed.

Very truly yours,



Marc E. Elias
Andrew H. Werbrock
Counsel to Kirkpatrick for Arizona

¹ While it is unnecessary for the Commission to address this issue with respect to Respondent, the Complaint should also be dismissed because the advertisement did not involve an impermissible "republication" of campaign materials by House Majority PAC. The Complaint alleges only that House Majority PAC used several snippets of B-roll that it obtained from a publicly posted YouTube video in developing its own advertisement. In the past, the Commission has declined to pursue enforcement under similar circumstances. See State of Reasons of Commissioners Caroline C. Hunter and Matthew S. Petersen, MUR 6617 & 6667 (Vilsack for Iowa & Friends of Cherie Bustos); Statement of Reasons of Chair Caroline C. Hunter and Commissioners Donald F. McGahn and Matthew S. Petersen, MUR 6357 (American Crossroads); Statement of Reasons of Chair Caroline C. Hunter and Commissioners Donald F. McGahn and Matthew S. Petersen, MUR 5879 (DCCC); Statement of Reasons of Commissioners Hans von Spakovsky and Ellen Weintraub, MUR 5743 (EMILY's List); Statement of Reasons of Vice Chairman Matthew S. Petersen and Commissioners Caroline C. Hunter and Donald F. McGahn, MUR 5996 (Education Finance Reform Group).